

Exhibit 7

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

_____)
PETER MUMMA, in his capacity as Chief)
Executive Officer and President of the)
Board of Directors of Phoenix Houses of)
New England, Inc.,)
Petitioner,)

v.)

C.A. No. PM-2021-00006

_____)
PHOENIX HOUSES OF NEW)
ENGLAND, INC.,)
Respondent.)
_____)

EX PARTE EMERGENCY PETITION FOR INSTRUCTIONS

NOW COMES Jonathan N. Savage, Esq. (the “Special Master”), solely in his capacity as Permanent Non-Liquidating Special Master of Phoenix Houses of New England, Inc. (“Phoenix House”), and hereby moves, on an *ex parte*, emergency basis for an order authorizing the Special Master to file a lawsuit against the United States Small Business Administration (the “SBA”) and its Administrator, in her official capacity, in the United States District Court for the District of Rhode Island. In support hereof, the Special Master states as follows:

1. Phoenix House is a substance use treatment organization, serving hundreds of people throughout New England.

2. As the Court is aware, Phoenix House operates on thin margins; it is a nonprofit that relies heavily on grant funding and a consistent level of incoming census to its facilities.

3. Recently, Phoenix House, by and through the Special Master, applied for a second draw under the Paycheck Protection Program (the “PPP”), which it has received in the amount of two million dollars (the “Second Draw Funds”).

4. The Second Draw Funds are currently held in a segregated bank account and have not been used for any purpose.

5. The Special Master has, though his counsel, sought an advisory opinion from the SBA, through the Rhode Island District Office District Director, that Phoenix House was eligible to receive the Second Draw Funds and that it complied with PPP regulations and guidelines pertaining to its compliance with the requisite revenue reduction calculations.

6. To date, despite the efforts of the Special Master, the SBA has yet to issue such an opinion.

7. Unless and until there is a opinion or determination that Phoenix House was eligible to receive the Second Draw Funds, and therefore be eligible for loan forgiveness, the Special Master cannot approve or allow Phoenix House to access and use the Second Draw Funds. If it is later determined that Phoenix House was ineligible to receive the PPP loan, but the Second Draw Funds were used, it will have created a significant obligation on the part of the special mastership estate to the material detriment of Phoenix House's creditors.

8. Moreover, given the impact of COVID-19 on Phoenix House's finances, it has become clear to the Special Master that absent access to the Second Draw Funds, Phoenix House will be unable to comply with the Court-approved Operating Plan, resulting in a likely conversion of this proceeding to a liquidation and the subsequent closure of Phoenix House's programs.

9. Absent approval as to Phoenix House's eligibility under the PPP, the harm to the special mastership estate, to Phoenix House, and its creditors, employees, and clients, will be immense and irreparable.

10. Although the SBA has, through the promulgation of several Interim Final Rules, determined that debtors in a bankruptcy proceeding ineligible for PPP loans, this proceeding is a

non-liquidating special mastership, overseen pursuant to this Court's COVID-19 Business Recovery Plan.

11. To date, there is nothing in the PPP legislation, the amendments thereto, or the SBA's Interim Final Rules that prohibit operating entities, like Phoenix House, who enjoy the non-liquidating, equitable supervision of the Court, from being deemed ineligible for loan forgiveness.

12. To prevent the irreparable harm to Phoenix House's creditors, among others, it is necessary to seek a declaration that Phoenix House is not excluded from eligibility under the PPP solely due to its participation in the Rhode Island Superior Court's COVID-19 Business Recovery Plan.¹

13. Accordingly, given the irreparable harm at stake in this matter, the filing of a lawsuit against the SBA and its agents seeking declaratory and injunctive relief as to Phoenix House's eligibility under the PPP is, in the Special Master's business judgment, in the best interest of the special mastership estate.

14. In connection with the filing of that lawsuit, the Special Master also requests that the order entered on this Petition for Instructions amend Phoenix House's Operating Plan to set forth the specific purposes for which the Second Draw Funds will be utilized. This will ensure a first layer of Court-supervision as to the use of the Second Draw Funds.

15. Moreover, after the federal matter is opened in the United States District Court for the District of Rhode Island, the Special Master will request that such lawsuit remain open as an active matter, providing yet another layer of Court-supervision. In the federal matter, and throughout the course of this special mastership, the Special Master can report to the federal court,

¹ In addition to the Special Master, the Business Recovery Plan's Program Coordinator, W. Mark Russo, Esq., intends join in the federal lawsuit as the eligibility of operating entities in the COVID-19 Business Recovery Plan also have a stake in the outcome of the case.

as well as the SBA in a federal forum, regarding the use of the Second Draw Funds. Thus, if a dispute arises as to use and forgiveness of those funds, the parties will have an efficient forum for resolution.

WHEREFORE, the Special Master respectfully requests that the Court enter an order:

1. Authorizing the Special Master, jointly with the COVID-19 Business Recovery Plan's Program Coordinator, to file an action in the United States District Court for the District of Rhode Island against the SBA, its Administrator, and its agents/employees, seeking (a) declaratory relief regarding Phoenix House's eligibility under the PPP and as to the forgiveness of Phoenix Houses' second draw under the PPP; (b) injunctive relief enjoining the SBA, its Administrator, and its agents/employees from denying Phoenix House's eligibility under the PPP and/or deeming Phoenix House and its second draw under the PPP ineligible for forgiveness; and (c) any related relief related to Second Draw Funds;
2. Amending the Court-approved Operating Plan to set forth the specific purposes for which the Second Draw Funds will be utilized, pursuant to the language of the PPP; and
3. Approving of all the acts and doings of the Special Master relative to this petition for instructions.

Jonathan N. Savage, Esq., solely in his
capacity as Permanent Special Master of
Phoenix Houses of New England, Inc.,
By His Counsel,

/s/ Christopher J. Fragomeni
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